

ENTERED

December 07, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

PHILLIP EDWARD BAKER,

Movant,

VS.

UNITED STATES OF AMERICA,

Respondent.

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§CIVIL ACTION NO. 3:15-CV-42
CRIMINAL ACTION NO. 3:11-CR-8**ORDER**

Phillip Edward Baker is a federal prisoner who filed a motion to vacate three child pornography convictions pursuant to 28 U.S.C. § 2255 (Dkt. 118).¹ The Court denied Baker's Section 2255 motion and denied a certificate of appealability (Dkt. 136). Baker filed a notice of appeal (Dkt. 137). The Clerk of the Court has informed the Court that three pending motions are interfering with the Clerk's ability to comply with the record requirements of the Federal Rules of Appellate Procedure.

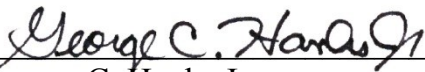
Two of the pending motions are applications to proceed *in forma pauperis* on appeal (Dkt. 140 and Dkt. 141), which are **GRANTED**. No initial partial filing fee will be assessed, as the Prison Litigation Reform Act does not apply to Section 2255 motions. *United States v. Cole*, 101 F.3d 1076, 1077 (5th Cir. 1996). The third motion appears to be a copy of the brief that Baker filed with the Fifth Circuit, which the Court construes as a motion to reconsider the denial of a certificate of appealability. That motion (Dkt. 143)

¹ All docket entry numbers refer to the docket in the criminal matter.

is **DENIED**; Baker has not made a substantial showing of the denial of a Constitutional right. *See* 28 U.S.C. § 2253(c)(2).

The Clerk of this Court shall send a copy of this Order to the parties and to the Clerk of Court of the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit docket number is 16-41479.

SIGNED at Galveston, Texas, this 7th day of December, 2016.



George C. Hanks Jr.
United States District Judge